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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/486,977	03/06/2000	MARK HANS EMANUEL	6804	
7590 02/27/2006			EXAMINER	
JOEL R. PETROW			BUI, VY Q	
SMITH & NEPHEW, INC. 1450 BROOKS ROAD		ART UNIT	PAPER NUMBER	
MEMPHIS, TN 38116			3731	
			DATE MAILED: 02/27/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Staminer		Application No.	Applicant(s)				
Vy Q. Bui 3731	Office Action Summany		<u> </u>				
Preirod for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Beatenines of time may be enabled under the provided and 13 of R11-13(b), in to event, however, may a reply be simely field If NO period for reply is a specified above, the maximum statutory period will apply and will expire SIX (8) MONTHS from the mailing date of this communication. Fallow to reply within the set or excended period for regly is specified above, the maximum statutory period will apply and will expire SIX (8) MONTHS from the mailing date of this communication. Fallow to reply within the set or excended period for regive it. Period the provided will apply and will expire SIX (8) MONTHS from the mailing date of this communication. Fallow to reply within the set or excended period for regive like a provided will apply and will expire SIX (8) MONTHS from the mailing date of this communication, even if smelly filled, may reduce any event of period in a provided will apply and will expire SIX (8) MONTHS from the mailing date of this communication, even if smelly filled, may reduce any event of period from the mailing date of this communication, even if smelly filled, may reduce any event of period from the mailing date of this communication, even if smelly filled, may reduce any event of period from the mailing date of this communication. 1) □ Responsive to communication(s) filled on 07 December 2005. 2a) □ This action is FINAL. 2b) □ This action is finAL. 2b) □ This action is filled. 2b) □ This action is filled to not fill a period from a fill a period from the mailing date of this communication. 4) □ Claim(s) 22-71 is/are period from the provided from the period from from a fill and period from the mailing date of this communication. 4) □ Claim(s) 22-71 is/are period from the period from the fill and from the period from the fill and from the fil	Oπice Action Summary	Examiner	Art Unit				
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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 20-23, 38, 57-61, 68-71, drawn to method of removal a tissue including inserting a cutter, introducing a fluid and discharging the substantially fluid only and fluid with detached tissue in two paths, classified in class 601, subclass 2.
- II. Claims 39-56, 62-67, drawn to a method of inserting a cutter into a valve of an endoscope, classified in class 606, subclass 15.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as methods of using subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination endoscope has separate utility such as for receiving or introducing a suture grasper into a body cavity. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

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The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vy Q. Bui

Primary Examiner

02/20/2006

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